

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON 25, D. C.

IN THE MATTER OF THE CLAIM OF

ALICE M. JAKES, Executrix of the
Estate of OTTO H. JAKES, Deceased
67 Gregory Avenue
Merrick, New York

Claim No. CZ- 3,563

Decision No. CZ- 3225

Under the International Claims Settlement
Act of 1949, as amended

GPO 16-72180-1

Counsel for Claimant:

Murry Kalik, Esq.
Berkeley Building
19 West 44th Street
New York 36, New York

FINAL DECISION

The Commission issued its Proposed Decision on this claim
on April 5, 1962, a copy of which was duly served upon
the claimant(s). Full consideration having been given to the objections
of the claimant(s), filed within the twenty-day period after such service
which has now expired, and general notice of the Proposed Decision
having been given by posting for twenty days, it is

ORDERED that such Proposed Decision be and the same is hereby
entered as the Final Decision on this claim.

Dated at Washington, D. C.

MAY 31 1962

Edward J. De
Theodore Joffe
Lavern R. Diweg

COMMISSIONERS

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PROPOSED DECISION

This is a claim in the amount of \$40,700.00 against the Government of Czechoslovakia under Section 404, Title IV of the International Claims Settlement Act of 1949, as amended, originally filed by OTTO H. JAKES (hereinafter referred to as the decedent), a native-born citizen of the United States. The claim is based on nationalization or other taking of (1) certain real property, and (2) a business enterprise in Czechoslovakia.

The record discloses that OTTO H. JAKES died on October 16, 1960 and that ALICE M. JAKES, his widow, has been duly appointed Executrix of his estate. Accordingly, ALICE M. JAKES, Executrix of the Estate of OTTO H. JAKES, deceased, has been substituted as the claimant herein.

Section 404 of the Act provides, inter alia, for the determination by the Commission in accordance with applicable substantive law, including international law, of the validity and amount of claims by nationals of the United States against the Government of Czechoslovakia for the nationalization or other taking on and after January 1,

1945 of property, including any rights or interests therein owned at the time by nationals of the United States.

(1) Real Property

The Commission finds that the decedent owned a 1/4 interest in a farm in Zirovnice, Czechoslovakia consisting of a house, other improvements, and land extending over an area of approximately 3.38 hectares, which was taken without compensation by the Government of Czechoslovakia on June 10, 1952. It is, therefore, concluded that the claimant is entitled to compensation for this loss under Section 404 of the Act.

In determining the value of the property thus taken, the Commission considered all the evidence of record including statements of the decedent's brother, the owner of a 3/4 interest in the property, that the purchase price of the house in 1922 was 240,000 crowns and that improvements were made to the extent of 45,000 crowns; a photograph of the property; a description of the property; the results of the Commission's independent investigation; and evidence appearing in the records of the Commission respecting the value of similar property in Czechoslovakia. Consideration was also given to the fact that the land included an orchard.

On the basis of the entire record, the Commission finds that the value of the house was \$5,000.00; that the improvements had a value of \$2,500.00 and that the value of the land including the orchard was \$2,000.00. Accordingly, the Commission finds that the value of decedent's 1/4 interest was \$2,375.00.

(2) Business Enterprise

The record contains statements of the decedent to the effect that from November 1946 to April 1948 he was engaged in the business of selling typewriters, calculating machines and other office equipment in Czechoslovakia as the distributor of several American concerns; that the value of his machines in 1948 when he left Czechoslovakia was 1,881,500 crowns, and that this property was taken by the Government

of Czechoslovakia in 1950 and 1951. He further stated that prior to World War II, he had conducted the business in partnership with one E. V. Voska.

In support of his claim, the decedent submitted a photostatic copy of a statement, dated April 23, 1931, from a bank in Czechoslovakia, addressed to Mr. E. V. Voska concerning Mr. Voska's bank account, a statement, dated December 31, 1947, from Inex Export and Import Corporation, Prague, Czechoslovakia, addressed to the decedent as manager of Inex Corporation, relating to commissions due decedent for sales during the fiscal year, 1947.

The latter statement was submitted by the decedent with his affidavit of August 30, 1960 and accompanying inventory of machines. In forwarding the statement of December 31, 1947, the decedent explained that it had no connection with his business enterprise but was "enclosed for its monetary value".

Upon being interviewed in New York on July 15, 1960, by a representative of the Commission, the decedent stated that he had no evidence to establish that his business in Czechoslovakia had been taken, and in his letter of August 30, 1960, he stated that a friend who had visited Czechoslovakia that summer had been unable to obtain evidence showing a taking of his property. Moreover, counsel for claimant has advised that no further evidence is available.

The Commission is of the opinion that the evidence is insufficient to warrant the finding that any machines belonging to the decedent were taken by the Government of Czechoslovakia on or after January 1, 1945. The burden of proof on all issues involved in a claim rests upon the claimant. The Commission holds that the burden of proof has not been met with respect to this portion of the claim. Accordingly, this portion of the claim is denied.

A W A R D

Pursuant to the provisions of Title IV of the International Claims Settlement Act of 1949, as amended, an award is hereby made to ALICE M. JAKES, Executrix of the Estate of OTTO H. JAKES, deceased, in the principal amount of Two Thousand Three Hundred Seventy-five Dollars (\$2,375.00), plus interest thereon at the rate of 6% per annum from June 10, 1952 to August 8, 1958 the effective date of Title IV of the Act, in the amount of Eight Hundred Seventy-seven Dollars and Ninety-seven Cents (\$877.97), for a total award of Three Thousand Two Hundred Fifty-two Dollars and Ninety-seven Cents (\$3,252.97).

Dated at Washington, D. C.

APR 5 1962

BY DIRECTION OF THE COMMISSION:

Francis T. Masterson

Francis T. Masterson
Clerk of the Commission

THIS DECISION WAS ENTERED AS THE COMMISSION'S
FINAL DECISION ON MAY 31 1962

Francis

son

Clerk of the Commission